

HOUSE BILL NO. 237

INTRODUCED BY M. PHILLIPS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE GRADUATED RENEWABLE ENERGY STANDARDS
5 IN THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT;
6 REQUIRING THE SUBMISSION OF PROCUREMENT PLANS FOR THE NEW STANDARDS; AMENDING
7 SECTIONS 69-8-1004 AND 69-8-1005, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 69-8-1004, MCA, is amended to read:
12 **"69-8-1004. Renewable resource standard -- administrative penalty -- waiver.** (1) Except as provided
13 in 69-8-1007 and subsection ~~(4)~~ (13) of this section, a graduated renewable energy standard is established for
14 public utilities as provided in subsections (2) through ~~(4)~~ (6) of this section.

15 (2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility
16 shall procure a minimum of 5% of its retail sales of electrical energy in Montana from eligible renewable
17 resources.

18 (3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public
19 utility shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable
20 resources.

21 (b) As part of their compliance with subsection (3)(a), public utilities shall purchase both the renewable
22 energy credits and the electricity output from community renewable energy projects that total at least 50
23 megawatts in nameplate capacity.

24 (c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on
25 each public utility's retail sales of electrical energy in Montana in the calendar year 2009.

26 (4) (a) In ~~the each~~ each compliance year beginning January 1, 2015, ~~and in each succeeding compliance year,~~
27 through December 31, 2019, each public utility shall procure a minimum of 15% of its retail sales of electrical
28 energy in Montana from eligible renewable resources.

29 (b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable
30 energy credits and the electricity output from community renewable energy projects that total at least 75

1 megawatts in nameplate capacity.

2 (ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under
3 subsection (3)(b).

4 (c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on
5 each public utility's retail sales of electrical energy in Montana in the calendar year 2014.

6 (5) (a) In each compliance year beginning January 1, 2020, through December 31, 2024, each public
7 utility shall procure a minimum of 20% of its retail sales of electrical energy in Montana from eligible renewable
8 resources.

9 (b) (i) As part of their compliance with subsection (5)(a), public utilities shall purchase both the renewable
10 energy credits and the electricity output from community renewable energy projects that total at least 100
11 megawatts in nameplate capacity.

12 (ii) In meeting the standard in (5)(b)(i), a public utility may include purchases made under subsection
13 (4)(b).

14 (c) Public utilities shall proportionately allocate the purchase required under subsection (5)(b) based on
15 each public utility's retail sales of electrical energy in Montana in the calendar year 2019.

16 (6) (a) In the compliance year beginning January 1, 2025, and in each succeeding compliance year, each
17 public utility shall procure a minimum of 25% of its retail sales of electrical energy in Montana from eligible
18 renewable resources.

19 (b) (i) As part of their compliance with subsection (6)(a), public utilities shall purchase both the renewable
20 energy credits and the electricity output from community renewable energy projects that total at least 125
21 megawatts in nameplate capacity.

22 (ii) In meeting the standard in subsection (6)(b)(i), a public utility may include purchases made under
23 subsection (5)(b).

24 (c) Public utilities shall proportionately allocate the purchase required under subsection (6)(b) based on
25 each public utility's retail sales of electrical energy in Montana in the calendar year 2024.

26 ~~(5)(7)~~ (a) In complying with the standards required under subsections (2) through ~~(4)~~ (6), a public utility
27 shall, for any given compliance year, calculate its procurement requirement based on the public utility's previous
28 year's sales of electrical energy to retail customers in Montana.

29 (b) The standard in subsections (2) through ~~(4)~~ (6) must be calculated on a delivered-energy basis after
30 accounting for any line losses.

1 ~~(6)~~(8) A public utility has until 3 months following the end of each compliance year to purchase renewable
2 energy credits for that compliance year.

3 ~~(7)~~(9) (a) In order to meet the standard established in subsections (2) through ~~(4)~~ (6), a public utility may
4 only use:

5 (i) electricity from an eligible renewable resource in which the associated renewable energy credits have
6 not been sold separately;

7 (ii) renewable energy credits created by an eligible renewable resource purchased separately from the
8 associated electricity; or

9 (iii) any combination of subsections ~~(7)(a)(i) and (7)(a)(ii)~~ (9)(a)(i) and (9)(a)(ii).

10 (b) A public utility may not resell renewable energy credits and count those sold credits against the public
11 utility's obligation to meet the standards established in subsections (2) through ~~(4)~~ (6).

12 (c) Renewable energy credits sold through a voluntary service such as the one provided for in
13 69-8-210(4) may not be applied against a public utility's obligation to meet the standards established in
14 subsections (2) through ~~(4)~~ (6).

15 ~~(8)~~(10) Nothing in this part limits a public utility from exceeding the standards established in subsections
16 (2) through ~~(4)~~ (6).

17 ~~(9)~~(11) If a public utility exceeds a standard established in subsections (2) through ~~(4)~~ (6) in any
18 compliance year, the public utility may carry forward the amount by which the standard was exceeded to comply
19 with the standard in either or both of the 2 subsequent compliance years. The carryforward may not be
20 double-counted.

21 ~~(10)~~(12) Except as provided in subsection ~~(11)~~ (13), if a public utility is unable to meet the standards
22 established in subsections (2) through ~~(4)~~ (6) in any compliance year, that public utility shall pay an administrative
23 penalty, assessed by the commission, of \$10 for each megawatt hour of renewable energy credits that the public
24 utility failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from
25 these penalties must be deposited in the universal low-income energy assistance fund established in
26 69-8-412(1)(a).

27 ~~(11)~~(13) A public utility may petition the commission for a short-term waiver from full compliance with the
28 standards in subsections (2) through ~~(4)~~ (6) and the penalties levied under subsection ~~(10)~~ (12). The petition must
29 demonstrate that the:

30 (a) public utility has undertaken all reasonable steps to procure renewable energy credits under

1 long-term contract, but full compliance cannot be achieved either because renewable energy credits cannot be
2 procured or for other legitimate reasons that are outside the control of the public utility; or

3 (b) integration of additional eligible renewable resources into the electrical grid will clearly and
4 demonstrably jeopardize the reliability of the electrical system and that the public utility has undertaken all
5 reasonable steps to mitigate the reliability concerns."

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7 **Section 2.** Section 69-8-1005, MCA, is amended to read:

8 **"69-8-1005. Procurement -- cost recovery -- reporting.** (1) In meeting the requirements of this part,
9 a public utility shall:

10 (a) conduct renewable energy solicitations under which the public utility offers to purchase renewable
11 energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration;
12 and

13 (b) consider the importance of geographically diverse rural economic development when procuring
14 renewable energy credits.

15 (2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate
16 to the commission that these contracts will provide a lower long-term cost of meeting the standard established
17 in 69-8-1004.

18 (3) (a) Contracts signed for projects located in Montana must require all contractors to give preference
19 to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the
20 projects if the Montana residents have substantially equal qualifications to those of nonresidents.

21 (b) Contracts signed for projects located in Montana must require all contractors to pay the standard
22 prevailing rate of wages for heavy construction, as provided in 18-2-401(13)(a), during the construction phase
23 of the project.

24 (4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced
25 approval under procedures established by the commission. Upon advanced approval by the commission, these
26 contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's
27 ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility
28 has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

29 (5) A public utility shall submit renewable energy procurement plans to the commission in accordance
30 with rules adopted by the commission. The plans must be submitted to the commission on or before:

- 1 ~~(a)~~ January 1, 2007, for the standard required in 69-8-1004(2);
2 ~~(b)~~(a) June 1, 2008, for the standard required in 69-8-1004(3);
3 ~~(c)~~(b) June 1, 2013, for the standard required in 69-8-1004(4); ~~and~~
4 (c) June 1, 2018, for the standard required in 69-8-104(5);
5 (d) June 1, 2023, for the standard required in 69-8-104(6); and
6 ~~(d)~~(e) any additional future dates as required by the commission.
7 (6) A public utility shall submit annual reports, in a format to be determined by the commission,
8 demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the
9 year following the compliance year."

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11 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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